

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL**

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

OP(KAT).No. 44 of 2015 (Z)

**AGAINST THE ORDER/JUDGMENT IN OA 2131/2014 of KERALA
ADMINISTRATIVETRIBUNAL, THIRUVANANTHAPURAM DATED 24-11-2014**

PETITIONER(S):

**T.CHRISTUDASAN, AGED 54 YEARS,
S/O.LATE THANKAYYAN,
RESIDING AT CIVIL BHAVAN, PATTAKULAM, VEERANAKAVE P.O.,
THIRUVANANTHAPURAM PIN-695 575.
(EMPLOYED AS HEADMASTER, GOVT. L.P.SCHOOL, KUZHAKKAD
PANNIYODE, THIRUVANANTHAPURAM, PIN-695 572.**

BY ADV. SRI.S.MOHANDAS

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM-695 001.**
- 2. DEPUTY DIRECTOR OF EDUCATION,
KILLIPALAM, THIRUVANANTHAPURAM-695 023.**
- 3. ASSISTANT EDUCATIONAL OFFICER,
KATTAKKADA, THIRUVANANTHAPURAM, PIN-695 573.**
- 4. ACCOUNTANT GENERAL (AUDIT) KERALA,
THIRUVANANTHAPURAM-695 001.**

R BY SRI.T.RAMAPRASAD UNNI, GOVERNMENT PLEADER

**THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DG

OP(KAT).No. 44 of 2015 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1- A TRUE COPY OF THE ORIGINAL APPLICATION OF OA . No. 2131/2014 WITH ITS ANNEXURES A.1 TO 1.6 FILED BEFORE THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM.

EXHIBIT P2- A TRUE COPY OF ORDER DATED 24/11/2014 IN O.A. NO.2131/2014.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

**THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.**

O.P.(KAT).No.44 of 2015

Dated this the 19th day of February, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned counsel for the petitioner.

2. This original petition is filed invoking Article 227 of the Constitution of India. Under challenge is the refusal of the Kerala Administrative Tribunal to interfere with the recovery of excess payment. The applicant is now working as the Headmaster of a Government Lower Primary School. Before that, he joined service as a P.D. Teacher on 22.03.1983. Prior to that, he served an aided school as a primary teacher from 8.11.1979 to 21.3.1983. As per the 1997 pay revision order issued on 25.11.1998, he was granted weightage, taking into account the aided school service as well. That order was silent on the aspect whether aided school service could be counted or not for weightage. Later, by order dated 7.4.1999, the Government clarified that such service should not be reckoned. The weightage having been already reckoned taking into consideration his aided school service, the fixation as far as the

applicant is concerned was objected to in audit in 2002 and the applicant was informed about such audit objection. He represented against it. Ultimately, the matter reached the Tribunal when recovery proceedings were initiated. We see that the Tribunal had wanted the applicant to disclose whether he had given any undertaking to repay the amount before receiving the benefit of the weightage, in the event of that being objected to in audit in future. That query was answered by saying that such undertaking was given. That being so, we do not find our way to hold that the decision of the Tribunal which went against the applicant warrants interference in exercise of authority under Article 227 of the Constitution of India since it cannot be categorized as vitiated by any jurisdictional error or illegality. This original petition, therefore, fails.

In the result, this original petition is dismissed in limine.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG